

1 A. Well, that's the two that he had met on the  
2 levee. That's all, that was all that he was expecting.

3 Q. Did he tell you whether or not Richard Blazer  
4 knew that Howe was coming out?

5 A. He said he did not, he did not know Howe was  
6 coming.

7 Q. And did Walter Polson tell you what type of gun  
8 he had again in this homicide?

9 A. Yes.

10 Q. And again what type of gun was that?

11 A. The chrome or nickel plated Raven, 25 caliber  
12 semiautomatic.

13 Q. And did he tell you it's the same gun that he had  
14 in the Mark McDonald's homicide?

15 A. Yes, he did.

16 Q. Did he tell you what type of gun that Weston  
17 Howe, Jr. had?

18 A. Yes, a black or blue steel 25 caliber  
19 semiautomatic.

20 Q. And was it the same gun used in the Mark  
21 McDonald's case?

22 A. Yes, same gun.

23 Q. Okay. I would like to direct your attention to,  
24 back to 4:05 in the morning, and ask you if you were  
25 back at the Safety Building at that time?

1 A. Yes, I was.

2 MR. DUNDES: Could I have a minute, your  
3 Honor?

4 THE COURT: You may.

5 BY MR. DUNDES:

6 Q. Let me back you up for, for a second, if I could,  
7 Detective Lawson. The conversation that you just told  
8 us about with Walter Polson, was that after you went out  
9 to where the wallet was or before?

10 A. Before?

11 Q. Before that?

12 A. Yes.

13 Q. And then you proceeded out to find the wallet?

14 A. That's correct, yes.

15 Q. And from finding the wallet, did you return to  
16 the Safety Building?

17 A. Yes, I did.

18 Q. At that time did you do anything with regard to a  
19 broadcast on Tony Elopskey?

20 A. Yes.

21 Q. What was that?

22 A. At 4:05 a.m. on June the 23rd, I made a broadcast  
23 for to have Elopskey picked up. And I put the  
24 information out that he could possibly be found at a  
25 corner house at Fifth, East Fifth and June Street.

1 Q. And do you know whether or not he was found  
2 there?

3 A. Yes, he was found.

4 Q. And was he arrested at that location?

5 A. He was arrested at the corner house. It was 1801  
6 East Fifth Street. He was arrested by Officers Caserta  
7 and Wyant at about 20 minutes after 4.

8 Q. Did they return him to the Safety Building?

9 A. Yes, they did.

10 Q. Did they return him to you?

11 A. Yes, they did.

12 Q. At that point did you have the opportunity to  
13 interview him?

14 A. Yes.

15 Q. To your knowledge, was he separated from Walter  
16 Polson at that time from when he was arrested at least  
17 from when he came into your view?

18 A. Oh, absolutely.

19 Q. And Polson was separated from him?

20 A. Yes.

21 MR. DUNDES: May I approach the witness,  
22 your Honor?

23 THE COURT: You may.

24 BY MR. DUNDES:

25 Q. I'm handing you what's been previously marked as

1 State's Exhibit 72 for identification. Could you tell  
2 me what that is, please?

3 A. Yes. It's the Pre-Interview Form that I read to  
4 Tony Elofskey on June the 23rd at 4:59 a.m. at 335 West  
5 Third Street.

6 Q. Is there a name on the left-hand corner?

7 A. Yes.

8 Q. And that's what name?

9 A. Tony Elofskey.

10 Q. And does this rights form spell out the charges  
11 that the person is being interviewed for?

12 A. Yes.

13 Q. What were the charges?

14 A. Aggravated murder.

15 Q. Did you read each and every paragraph on this  
16 form to Tony Elofskey?

17 A. Yes, I did.

18 Q. Did he tell you that he understood it?

19 A. Yes.

20 Q. At the bottom there is a waiver of rights. Did  
21 you read that to him?

22 A. Yes.

23 Q. Did he tell you that he understood it?

24 A. Yes, he did.

25 Q. And where it talks about the amount of schooling,

1 did you fill that in?

2 A. I filled in the number 10. I asked him how many  
3 years of schooling he had completed. He told me 10. I  
4 wrote it in, 10 there.

5 Q. Now, I see down on the left-hand corner there is  
6 a spot for witnesses. Are there two names there?

7 A. Yes.

8 Q. And what are those?

9 A. Top one is Detective Wade E. Lawson and below  
10 that is Detective T.B. Spells.

11 Q. What's this in the right-hand corner also a spot  
12 for signature?

13 A. Tony DeWayne Elofskey.

14 Q. And did he sign that in your presence?

15 A. Yes, he did.

16 Q. Now after going through this Pre-Interview Form  
17 and reading his rights to him, did he decide to talk to  
18 you?

19 A. Yes.

20 Q. And at any time in reading this form to him, did  
21 you obscure any part of the form?

22 A. Absolutely not.

23 Q. He had full visual view of the form?

24 A. Yes, sir. It was on a table in front of us.

25 Q. Okay. Let me ask you this. When you first

1 observed Mr. Elofskey, did you have the opportunity to  
2 make any observations of his demeanor?

3 A. Yes.

4 Q. And what was that?

5 A. He appeared normal. He was calm when I first met  
6 him. Did not appear to be intoxicated. Didn't smell  
7 any alcohol about him. There wasn't, he wasn't walking  
8 without any trouble. His eyes were not watering or  
9 bloodshot. He appeared normal.

10 Q. At the beginning of the interview, did you say  
11 anything to him?

12 A. Yes.

13 Q. And what was that?

14 A. I told him that I knew he was involved in the  
15 matter that evening, the homicide on Tennyson Avenue.  
16 Told him we had his car off Riverside Drive. Told him  
17 that we had Weston Howe and Walter Polson. Both had  
18 given statements admitting their involvement, and also  
19 implicating him in that homicide and also the homicide  
20 of Mark McDonald at Monument and Findlay Street.

21 Q. And at that point did he decide to talk to you?

22 A. Yes, he talked to me.

23 Q. And what did he say to you?

24 A. Said that he was not involved.

25 Q. And did he continue with that story?

1 A. Yes. He stated that Mr. Howe and Mr. Polson had  
2 been driving his car and that he had been over on Troy  
3 and Valley Street and they hadn't brought his car back.  
4 And he really didn't know what they gotten into but he  
5 was not involved in it.

6 Q. At any time did he change that particular story?

7 A. Yes, just after a few minutes, really very brief  
8 sometime he changed.

9 Q. What did he say to you then?

10 A. He admitted that he was involved in both  
11 homicides.

12 Q. What did he tell you with regard to the Mark  
13 McDonald homicide?

14 A. That the three of them had been together, Mr.,  
15 being Mr. Howe and Mr. Polson and Tony Elofskey. And  
16 that Tony was driving the car. They were on the river  
17 levee looking for somebody to rob. And that Mr. Howe  
18 was ducked down in the front seat so he couldn't be  
19 seen. And Mr. Polson was in the back.

20 And that as they were riding around, he saw a  
21 white man driving a little blue car. And the car pulled  
22 up and he talked to the driver of the car. The man  
23 didn't get out of the car. They talked car to car. And  
24 the car driven off and came back just a short time  
25 later. Then Elofskey said he pulled out and this car

1 followed him. And he gave me street by street. I  
2 cannot recall. Webster Street, it was on Leo Street,  
3 Leo on over to Stanley, across Stanley to Findlay. Very  
4 specific, this route.

5 And once he got over to Monument across the  
6 Findlay Street bridge, he turned left back into the  
7 field alongside the river and that he backed into a,  
8 what he called a parking spot. He described there's a  
9 sign there, a no dumping, I believe he said. He told me  
10 exactly where he backed in. And that the blue car,  
11 which was following him, also pulled in and he was  
12 backed in. The blue car pulled in and stopped.

13 The driver of the blue car got out. It was a  
14 white man with glasses. And he stated at that time the,  
15 the defendant, Mr. Howe, who's still ducked down, had  
16 his 25 handgun tucked under Elofskey's leg right in  
17 behind the knee here. And that as this man approached  
18 the car, that Howe pulled a gun up and shot him as soon  
19 as he, as soon as he walked up. I asked Elofskey if, if  
20 he had any conversation with this man prior to being  
21 shot. And he stated, no, that he didn't. That the  
22 defendant shot him as soon as he walked up. And said  
23 the man threw his hands up and that Howe shot him three  
24 times. Stated the man, after being shot, took off  
25 running and that Mr. Howe and Mr. Polson jumped out of



1 the car and ran after him, caught him and threw him on  
2 the ground. And Elofskey stated he then pulled out the  
3 car and picked them up and came back with the car with  
4 the man's billfold.

5 Q. Did he tell you where they went after that?

6 A. Yes, to the, to the Oregon District. They tried  
7 to use the Green Machine card on Woodman Drive and again  
8 tried to use it. It wasn't able to get any money. Then  
9 he stated, driven back down to the Oregon District and  
10 the defendant had thrown the billfold and contents down  
11 the sewer.

12 Q. Did he tell you where they went after that?

13 A. After that he stated that he dropped them, Polson  
14 and Howe, off and then he went on home.

15 Q. Did he go any other place at that time other than  
16 besides home? Did he tell you where he went?

17 A. Not, not that I recall.

18 Q. Did he tell you when he next met up with Walter  
19 Polson?

20 A. That, that Monday afternoon that he had, that he  
21 had taken Walter Polson to the hospital. Walter shot  
22 himself in the foot a couple weeks prior to that. They  
23 had -- he had taken Walter to the hospital. I think the  
24 toe. But he decided not to be treated when he got  
25 there.

1           They continued to ride around. And 6 p.m. they  
2 ended back up on the levee, riding up on the river levee  
3 again as they had been the night before. That's when he  
4 ran into the person he knew as Dick.

5           Q. And is Dick, Richard Blazer?

6           A. Right.

7           Q. Did he tell you if they had conversation at that  
8 time?

9           A. Yes.

10          Q. And what was that conversation?

11          A. That he had given him a call sometime and that he  
12 had taken Dick's phone number and written the phone  
13 number down. And really that was about the extent of  
14 it.

15          Q. Did he tell you where he went from the levee?

16          A. Well, they continued to ride around for a while.  
17 Then he ended back up on, on Troy Street where Mr. Howe  
18 was.

19          Q. And did he tell you what his conversation was  
20 with Mr. Howe at that time?

21          A. Yes.

22          Q. And what was that conversation?

23          A. Well, the three of them, Elofskey and Polson and  
24 Howe, had, they all had a conversation. They decided to  
25 go rob Mr. Blazer. And that they decided that Tony

1 should call Mr. Blazer and set it up that he and Polson  
2 could come over. He would be expecting him. And once  
3 they got there, they hadn't -- once they got there, that  
4 Elofskey and Polson would go inside leaving Mr. Howe in  
5 the car. He knew that Polson had a gun. He knew that  
6 Howe had a gun. He stated he did not have a gun.  
7 Elofskey did not have a gun. And once they got inside,  
8 that Polson was to pull the gun on Mr. Howe (sic) and  
9 that Elofskey was to go outside, get the car started and  
10 let Mr. Howe come into the house. And that they were to  
11 take him to the Green Machine, take his TV and stereo  
12 and rob him.

13 Q. Did he tell you what happened when they arrived  
14 at 1912 Tennyson?

15 A. Yes.

16 Q. And what was that?

17 A. That, that when they pulled up, that Mr. Blazer  
18 was looking out the window, saw them pull up and that he  
19 did allow them, open the door and allowed them to come  
20 into the house. And once they went in the front door,  
21 they turned into the living room and immediately Polson  
22 pulled his gun from the front of his pants, and he said  
23 he shot, shot Mr. Blazer. And Elofskey said at that  
24 point he said, I ran out the front door. Mr. Blazer ran  
25 out behind him. And that Mr. Howe was by the bushes

1 just outside the front door. And that Mr. Howe shot  
2 Mr. Blazer several times. They got into the car, drove  
3 off. And a large white car began following them and  
4 continued to follow them until where he pulled the car  
5 and everybody jumped out of the car. He said he hid for  
6 a while. Ended up taking his jacket off and blue jeans.  
7 I think he had sweat pants or shorts under his blue  
8 jeans. He left that clothing there in an alley. And he  
9 finally made it back over to Troy Street.

10 Q. Did Mr. Elofskey tell you whether or not the gun  
11 that Walter Polson had at 1912 Tennyson was the same gun  
12 that Elofskey had with him in the Mark McDonald  
13 homicide?

14 A. Yes, same gun.

15 Q. Did he also tell you that the gun Howe had was  
16 the same gun that Howe had in the Mark McDonald  
17 homicide?

18 A. Yes.

19 Q. After talking to Mr. Elofskey, did you have  
20 occasion to make a videotape interview or videotape  
21 interview?

22 A. Yes.

23 Q. I'm handing you what's been previously marked as  
24 Joint Exhibit I for identification. Could you tell me  
25 what that is, please?

1 A. Yeah. This is a copy of the original tape that I  
2 took, interview with Tony Elopskey. It was taken at  
3 1718 a.m. on June the 23rd of last year.

4 Q. Did Mr. Elopskey tell you where he had left the  
5 clothes --

6 A. Yes.

7 Q. -- that he had taken off?

8 And where was that?

9 A. In an alley between Helena and McOwen, west of  
10 Riverside Drive.

11 Q. And did you direct an evidence crew out to that  
12 scene?

13 A. Yes.

14 Q. And which crew was that?

15 A. Rick Smith.

16 Q. Detective Lawson, did you have an opportunity to  
17 book Walter Polson and Tony Elopskey into the  
18 detective's section?

19 A. Yes, I booked both, both men.

20 Q. Did you also have an occasion to mark and tag the  
21 clothes they were wearing?

22 A. Yes.

23 (WHEREUPON, State's Exhibit 76 was marked for  
24 identification.)

25 Q. Showing you what's been marked as State's Exhibit

1 76 for identification, could you tell me what that is,  
2 please?

3 A. Well, this is a, a brown package containing pair  
4 of blue jeans, a white T-shirt and a pair of black gym  
5 shoes. This is clothing worn by Walter Polson at the  
6 time he was arrested. This clothing was placed in the  
7 property room by me.

8 Q. Why don't you open it up for me.

9 Now, are these the clothes that Walter Polson was  
10 wearing when you interviewed him?

11 A. Well, yes, this is his clothing. There's my  
12 initials where I marked the shirt on the 23rd of June of  
13 last year. My initials here where I marked the T-shirt  
14 on June the 23rd of last year. Yes, these are his shoes  
15 and pants.

16 MR. SLAVENS: If it please the Court, 76,  
17 I want the record to show we are going to put it in a  
18 clear plastic bag. We can have it marked as 76-A at  
19 the appropriate time.

20 THE COURT: All right.

21 BY MR. DUNDES:

22 Q. Showing you what's been previously marked as  
23 State's Exhibit 75 for identification, could you open  
24 that up please and tell me what that is?

25 A. This is a bag containing a pair of gym shoes, a

1 pair of black shorts and a multi-color top. I think  
2 it's a multi-color top clothing and shoes worn by Tony  
3 Elofskey when I first saw him on the morning of June the  
4 23rd. His clothing was taken from him and placed in the  
5 property room by me.

6 Q. Could you look inside and tell me if that's what  
7 is enclosed, please?

8 A. Yeah, this is a shirt. Here's my initials W.L.,  
9 and the date 6/23 of '92. And the pants also has my  
10 initials W.L., 6/23 of '92. These are the Georgetown  
11 shorts that he was wearing and a pair of gym shoes that  
12 has my initials on the inside, W.L., 6/23 of '92. These  
13 are the shoes, shirt and pants that Tony Elofskey was  
14 wearing when he was brought to me.

15 Q. Now, Detective Lawson, you testified that you did  
16 an oral interview of Walter Polson, is that correct?

17 A. Walter Polson, yes.

18 Q. And between the time that you orally interviewed  
19 Walter Polson and Tony Elofskey, did they have any  
20 contact?

21 A. No, no.

22 Q. Now, you testified that you orally interviewed  
23 Tony Elofskey?

24 A. Yes.

25 Q. And then later videotaped his interview?

1 A. That's correct, yes.

2 Q. During any of those periods of time, did Walter  
3 Polson, Weston Howe, or Tony Elofskey have any contact?

4 A. No, no.

5 MR. DUNDES: Could I have a minute, your  
6 Honor?

7 THE COURT: You may.

8 MR. DUNDES: No further questions.

9 THE COURT: Cross-examination.

10 MR. ARNTZ: Thank you.

11

12 CROSS-EXAMINATION

13 BY MR. ARNTZ:

14 Q. Good morning.

15 A. Good morning, sir.

16 Q. Detective Lawson, you're a detective in the  
17 homicide section of the Dayton Police Department, are  
18 you not?

19 A. That's correct, yes.

20 Q. For how long have you had that assignment?

21 A. Ten years.

22 Q. And your brother Tom Lawson seated here with the  
23 prosecutors is also a detective assigned to the homicide  
24 section, is he not?

25 A. That's correct, yes.



1 Q. And for how long has he been so assigned?

2 A. Three, three and a half years, I think.

3 Q. And would any portion of the ten years that you  
4 have been a homicide detective overlap with the three or  
5 so years that he has been a homicide detective?

6 A. Yes.

7 Q. And, in fact, the two of you will occasionally  
8 work together on a case, won't you?

9 A. That's correct, yes.

10 Q. And it would be fair to say the two of you have  
11 worked together on this case, wouldn't it?

12 A. Absolutely, yes.

13 Q. All right. And let me take you, if I may, to,  
14 first, to your interviews with Walter Polson. You  
15 interviewed him orally and then on videotape, correct?

16 A. Yes, sir, that's correct.

17 Q. And, of course, you have not viewed the videotape  
18 recently or have you?

19 A. I've -- I have not seen all the, recently, the  
20 whole tape, that's correct. Parts of it.

21 Q. You've seen parts of it, okay.

22 And in the course of your investigation of this  
23 case, you created certain reports of your findings and  
24 the things that you did, is that correct?

25 A. That's correct.

1 Q. And your reports also contain things that were  
2 said to you by people you interviewed, am I right?

3 A. Yes, that's correct.

4 Q. And do you have those reports available to you  
5 today?

6 A. They're available, yes.

7 Q. And if I should ask you a question which would  
8 cause you to want to review those reports, in order to  
9 answer my question, will you ask for the reports?

10 A. Well, I will, to see what you're going to ask me  
11 first.

12 Q. If necessary, I want you to understand you are  
13 free to review your reports.

14 A. I understand.

15 Q. And, Detective Lawson, let me ask you first a  
16 couple of things about your conversations with Walter  
17 Polson, either on or off video, when you talked to him  
18 about the McDonald matter.

19 At the conclusion of his story when Polson leaves  
20 McDonald and gets into Elofskey's car and Elofskey's car  
21 leaves the scene at Monument and Findlay, what did  
22 Polson tell you about Mark McDonald's condition at that  
23 time?

24 A. As I recall, he was down to the ground as they  
25 left.

1 Q. You certainly don't recall that he told you a  
2 story that McDonald was up and walking and staggering,  
3 that kind of thing?

4 A. Polson or Elofskey said he was staggering. The  
5 other said he was down.

6 Q. Is it your testimony now you don't remember which  
7 one said which?

8 A. I said, as I recall, I recall right now that he  
9 said he was down. Because he had had him down taking  
10 his billfold from him.

11 Q. And then with regard to the Richard Blazer story  
12 which Polson told you. As I understand it, he told you  
13 that Elofskey had called Blazer and told Blazer that  
14 Elofskey and Polson would be coming over to his house,  
15 is that correct?

16 A. That's correct, yes.

17 Q. And apparently Polson told you that Elofskey had  
18 given Blazer a false name for Walter?

19 A. That's correct.

20 Q. Told Blazer that Walter's name was Tom?

21 A. That's correct.

22 Q. And what did Polson tell you about the reason  
23 that Elofskey gave Blazer a false name for Walter?

24 A. I don't recall the reason he gave that name.

25 Q. And what, according to Polson, reason did

1 Elofskey give Blazer for the visit that he and Polson  
2 were going to make to Blazer's house?

3 A. That they knew that Mr. Blazer was a homosexual,  
4 and for they had met before, Elofskey and him had, had  
5 contact in the past and was coming over for that reason.

6 Q. You may have misunderstood me. My question is,  
7 according to Polson, what reason did Elofskey give  
8 Blazer for the visit by Elofskey and Polson to Blazer's  
9 house?

10 A. That they were just going to go over for a visit.

11 Q. Now, did Polson ever tell you the story that he  
12 and Elofskey were going to Blazer's house in order to  
13 take gas money from him for cruising?

14 A. No.

15 Q. Have you ever heard that story before?

16 A. No.

17 Q. And again according to Polson, did he tell you  
18 that when he and Elofskey first entered Blazer's house,  
19 Polson took his gun out virtually just after they  
20 entered?

21 A. Did Polson tell me that?

22 Q. Yes, sir.

23 A. Yes, sir, he did.

24 Q. And did he also tell you that he did not know how  
25 many shots he himself fired?

1 A. No. He fired one shot.

2 Q. Did he also tell you that he did not know how  
3 many shots his stepbrother supposedly fired?

4 A. Yes.

5 Q. He wasn't sure how many shots had been fired at  
6 Blazer outside the house, isn't that true?

7 A. That is true, yes.

8 Q. He didn't tell you three or four or anything of  
9 that kind, did he?

10 A. Several shots. He didn't tell me anything  
11 exactly.

12 Q. Didn't tell you that anyone had emptied the clip  
13 out of the gun outside of Blazer's house, did he?

14 A. I don't recall if he made that exact comment.

15 Q. All right. And now with regard to your  
16 conversations with Tony Elofskey. Had Tony told you  
17 that he and Walter had lived together on and off for at  
18 least a couple of times prior to June of last year?

19 A. No, not that I recall.

20 Q. Had he told you that he and Elofskey -- I'm  
21 sorry. Had Elofskey told you that he and Polson had  
22 become friends when they first met at the Dayton  
23 Workhouse back in 1990?

24 A. No, we did not discuss that.

25 Q. You had not been aware they had been incarcerated

1 together and that's how they hooked up?

2 A. We didn't discuss that.

3 Q. Did you become aware that Polson and Elofskey  
4 were closer together than Polson or Elofskey to Howe?

5 A. I got that impression, yes.

6 Q. One of the reasons you got that impression was  
7 because when you talked to Walter Polson in the  
8 videotaped interview, I'm sorry, when you talked to Tony  
9 Elofskey in the videotaped interview, he wasn't even  
10 able to give you Weston Howe's last name, was he?

11 A. I don't recall that. I would have to play the  
12 interview.

13 Q. And when you talked to Tony Elofskey about the  
14 Mark McDonald killing, it's true, isn't it, that Tony  
15 Elofskey told you that Walter was actually covered up  
16 inside Tony's car?

17 A. That Walter was covered up?

18 Q. Yes, sir.

19 A. He said he was ducked down in the back seat. I  
20 don't recall him saying that he was actually covered up.  
21 That he was hiding in the back seat.

22 Q. And do you recall testifying in this matter last  
23 year under oath?

24 A. Yes, sir, I do.

25 Q. And do you recall some dialogue or question and

1 answer last year while you were under oath on the topic  
2 of whether or not Walter was covered up inside Tony's  
3 car out on Monument and Findlay?

4 A. I don't recall that. It's possible.

5 Q. 158. I will ask you whether you recall this  
6 question and this answer.

7 Question: Briefly state, not in all detail but  
8 what did he state at that time?

9 Answer: Well, he admitted that he had been  
10 present during both homicides. He readily admitted  
11 that. I asked him to begin with the one that happened  
12 at Monument and Findlay. And he said he had been riding  
13 around --

14 MR. SLAVENS: Your Honor, I'm voicing an  
15 objection.

16 THE COURT: You want to be heard on  
17 this?

18 MR. SLAVENS: Yes.

19 THE COURT: Approach.

20 (WHEREUPON, a side-bar conference was held  
21 off the record.)

22 THE COURT: The objection is overruled.  
23 You may continue, Mr.  
24 Arntz.

25 MR. ARNTZ: Thank you.

1 BY MR. ARNTZ:

2 Q. Detective, I was asking you whether you recall  
3 making this answer under oath last year while testifying  
4 in this matter.

5 Quote: And he said he had been riding around in  
6 his Mazda with Mr. Howe and Mr. Polson, sat up on the  
7 river levee. And Polson was in the back seat covered up  
8 so nobody could see him and that Howe was in the front  
9 seat ducked down. Do you recall testifying to that  
10 effect?

11 A. I do not recall, actually recall saying that. If  
12 that answers your question. My recollection is that  
13 Polson was hiding in the back seat. As I'm testifying  
14 now, I don't recall saying that he was covered up.

15 Q. So my reading you from the transcript of the  
16 hearing in question does not refresh your recollection  
17 as to what you said?

18 A. I don't doubt that's what I testified to. Your  
19 question was, do you recall that, and I don't.

20 Q. My next question, do you deny that Walter Polson  
21 told you either he or Elofskey that Polson had been  
22 covered up inside?

23 A. Oh, no, I don't deny. I'm sure they told me  
24 that.

25 Q. As I understand it, Elofskey also told you the



1 story that McDonald was shot through his driver's door  
2 window as he walked up to the driver's door?

3 A. That's correct, yeah.

4 Q. Do you recall whether or not Tony Elofskey also  
5 told you the story that after the shooting, he and  
6 others were laughing about it?

7 A. Yes, I recall something about that.

8 Q. And now with regard to the Richard Blazer  
9 homicide, do you remember when speaking to Tony Elofskey  
10 that Tony told you that when he and Walter went to the  
11 front door of Richard Blazer's house, that Richard  
12 Blazer didn't allow him into their house?

13 A. He did not tell me that.

14 Q. All right. You indicated that you had your  
15 reports available to you here today. Do you have those  
16 with you?

17 A. I know what the report says, sir.

18 Q. Did you not prepare a report to the effect that  
19 once they got there, Dick didn't allow them into the  
20 residence?

21 A. Yes, that's what --

22 MR. DUNDES: Your Honor, I'm going to  
23 have to object to the use of the police report on  
24 cross-examination.

25 THE COURT: Well, in view of the prior

1 rulings of the Court, I'm going to permit this as it  
2 relates to conversations between the officer and  
3 either Polson or Elofskey. So it will be overruled.

4 A. Yes, sir, that's what the report says but that is  
5 incorrect. I did not say that. He did not tell me  
6 that. When I called this report in, the girl that typed  
7 that report, I said Mr. Blazer did allow them into the  
8 house. She typed the report that didn't allowed into  
9 the house. That is totally incorrect.

10 BY MR. ARNTZ:

11 Q. So your testimony is then that is a typographical  
12 error only?

13 A. Yes, sir, that's correct.

14 Q. And your testimony is that Tony Elofskey never  
15 did say that to you?

16 A. Absolutely. He did not say that to me.

17 Q. Likewise, do you recall that at one point Tony  
18 Elofskey actually told you that Walter Polson shot  
19 Richard Blazer?

20 A. I'm sorry. Ask me again.

21 Q. That Tony Elofskey told you that Walter Polson  
22 shot Richard Blazer?

23 A. Yes, he said that.

24 Q. And, in fact, you repeated that when testifying  
25 under oath last year?

1 A. If you say so.

2 Q. And I believe when you spoke with Tony Elofskey,  
3 he indicated to you that he made arrangements to be  
4 driven back to his home after he got away following the  
5 Blazer shooting?

6 A. Yes, that's correct.

7 Q. And, in fact, you went and interviewed a man  
8 named Leon Lewis about how it was that Tony got back to  
9 his home at that time?

10 A. I did interview him, yes.

11 Q. And Leon Lewis talked to you about a conversation  
12 he had in his car with Tony Elofskey while he was taking  
13 Tony back home?

14 A. Yes, he did.

15 Q. And there was some conversation about Walter  
16 being out robbing crack dealers?

17 A. That's correct, yes.

18 Q. And also in that same conversation Tony had told  
19 Leon that Tony's car had been stolen and he didn't know  
20 where it was.

21 MR. DUNDES: Judge, I'm going to object.  
22 There's been no testimony about an interview with Leon  
23 Lewis on direct examination.

24 THE COURT: Now, wait a minute. Who is  
25 this conversation with, Mr. Arntz?

1 MR. ARNTZ: This is Detective Lawson  
2 relating what Leon Lewis told him about a conversation  
3 Lewis had with Tony Elofskey.

4 THE COURT: All right. At this point  
5 in time I'm going to deal with it on a question by  
6 question basis. What has already been testified to  
7 will be permitted. But I thought we were still  
8 involved with a conversation with the officer and  
9 Walter Polson.

10 All right. Let's proceed.

11 BY MR. ARNTZ:

12 Q. You indicated that when you first met with, with  
13 Elofskey, it was after he was brought to you by, I think  
14 you said it was, Officer Wyant or another officer who  
15 arrested Elofskey at his home?

16 A. Wyant and Caserta, yes.

17 Q. And when Wyant and Caserta brought Elofskey to  
18 you there in the police department, did either one of  
19 them lead you to believe that Elofskey had asked for a  
20 lawyer at that time he had been arrested?

21 A. No, sir, they did not.

22 Q. And when you began to talk to Tony Elofskey, of  
23 course, you reviewed the Miranda Rights Pre-Interview  
24 Form with him, didn't you?

25 A. Yes, I did.

1 Q. And that has previously been marked as State's  
2 Exhibit No. 72 and shown to you here today?

3 A. It is 72. And it was shown to him, yes.

4 Q. And, of course, you are familiar with this  
5 particular form, aren't you?

6 A. Yes, sir.

7 Q. 'Cause you use this form a number of times in  
8 order to interview people?

9 A. I have, yes.

10 Q. At the bottom portion of this form entitled  
11 waiver of rights is the portion which indicates whether  
12 or not an individual is willing to speak to you without  
13 an attorney present, isn't that correct?

14 A. Yes, sir, that's correct.

15 Q. All right. And is it true that you covered up  
16 the waiver of rights section of that form when Tony  
17 Elofskey signed the form?

18 A. No, sir, that is not true.

19 Q. And do I understand you to say that when you  
20 completed that form with Tony and began to speak to him,  
21 that he readily told you what he said was happening out  
22 at the homicide sites?

23 A. No, that's not true either.

24 Q. All right. Did he enter any denials to you that  
25 he didn't know anything about what had happened?

1 A. At first he denied having any knowledge of what  
2 happened.

3 Q. And, in fact, the truth is that he denied that a  
4 number of times, didn't he?

5 A. For a short time. Several minutes. I'm not sure  
6 just exactly how long it was.

7 Q. And after he tried to deny his knowledge of these  
8 things to you, that's when he eventually turned around  
9 and began to tell you what he said had occurred?

10 A. Well, after a few minutes, he changed his story  
11 and said he wanted to tell me the truth about what  
12 happened.

13 Q. All right. And your first interview with him  
14 began at approximately 4:59, is that correct?

15 A. That's correct. That's when I read this form to  
16 him, yes.

17 Q. We knew it was 4:59 because that's the time you  
18 wrote on State's Exhibit 72, the Miranda Rights  
19 Pre-Interview Form?

20 A. That's the time I wrote down here.

21 Q. Do you recall when you testified last year under  
22 oath on this topic you were asked some questions about  
23 whether or not Tony had initially denied knowing  
24 anything that went on out at that homicide sites?

25 A. As I testified here, he initially denied being

1 involved or knowing anything about it. I'm sure that's  
2 what I testified to last year. It's the truth.

3 Q. I will ask you whether you recall this question  
4 and answer from your testimony last year at page 172.

5 Question --

6 MR. SLAVENS: Objection, your Honor.

7 May we approach?

8 THE COURT: You may.

9 (WHEREUPON, a side-bar conference was held  
10 off the record.)

11 BY MR. ARNTZ:

12 Q. I will ask you specifically whether you recall  
13 this dialogue from your testimony under oath last year.

14 Question: When you first talked to him at the  
15 4:59 interview, initially did he indicate to you that he  
16 didn't know anything about this?

17 Answer: No. He never admitted from the very  
18 beginning that he knew about it. He never made any  
19 denials of being involved.

20 Do you recall that testimony?

21 A. I don't believe that.

22 Q. Would that testimony be correct and truthful if  
23 you made it?

24 A. That was -- if I said that, that is incorrect,  
25 'cause at first he did deny that.

1 Q. So if you testified that he in fact denied any  
2 knowledge or involvement, that would be incorrect  
3 testimony?

4 A. Correct testimony is that at first he did deny  
5 this for a few minutes.

6 Q. Did you not just say a short time ago that he in  
7 fact did not deny --

8 MR. DUNDES: Judge, I'm going to object.

9 I think the witness has answered the question already.

10 THE COURT: Well, he has. I will  
11 permit this question.

12 BY MR. ARNTZ:

13 Q. Did you not tell me a few minutes ago he never  
14 denied knowing what had happened?

15 A. No, I never told you that.

16 Q. And when you spoke to Tony, did you also tell him  
17 at any time that it would look better for him if he  
18 testified or spoke to you on videotape?

19 A. I don't recall telling him that.

20 Q. Is that a yes or no or I don't remember?

21 A. I don't recall. Possibly I did. I could have  
22 told him that. I don't recall saying that exact words.  
23 I asked him if he would be willing to give a videotaped  
24 statement so we could have his, his statement what he  
25 has to say about it on tape.



1 Q. Do you recall that at the conclusion of the  
2 videotaped interview that you had with Tony Elofskey,  
3 you said something to him to the effect that you would  
4 try to work out a deal for him?

5 A. No, I did not. Absolutely not.

6 Q. That would be perfectly untruthful, wouldn't it?

7 A. That I would try to work out a deal for him?

8 Q. That's right.

9 A. Yeah. That's not true.

10 MR. SLAVENS: May we approach, your  
11 Honor?

12 (WHEREUPON, a side-bar conference was held  
13 off the record.)

14 BY MR. ARNTZ:

15 Q. Detective Lawson, as I understand it, Tony told  
16 you that at neither one of these incidents, either the  
17 McDonald incident or the Blazer incident, did he,  
18 Elofskey, have a weapon with him?

19 A. That's what he told me, yes.

20 Q. Did he not tell you at one point he had a knife?

21 A. Not on him but there was a knife in the car but  
22 not on him.

23 Q. And he certainly said to you that he didn't have  
24 a gun with him, isn't that what he said?

25 A. That's what he said, yes.

1 Q. And, of course, you are familiar with the two  
2 guns that were recovered in the course of the  
3 investigation of these cases?

4 A. Yes.

5 Q. And, in fact, you made some effort to locate  
6 where those guns had come from, didn't you?

7 A. Yes.

8 Q. And specifically, you tried to find out if you  
9 could document who the owner of those guns was, didn't  
10 you?

11 A. Yes.

12 Q. And you were able, as I understand it, to trace  
13 that Bryco gun back to someone, weren't you?

14 A. This was taken care of by Detective Tom Lawson.  
15 As we speak, I'm not sure which gun it came back to.

16 Q. You're familiar with the fact that someone at  
17 least made the effort to locate who the owner of these  
18 guns was and apparently was able to come up with some  
19 names?

20 A. Oh, yes, we came up with some information.

21 Q. In fact, are you familiar with whether or not you  
22 located or someone located the names of two different  
23 persons who would have been the owners of two different  
24 guns?

25 MR. DUNDES: I will have to object, your

1 Honor. He's already testified that Tom Lawson is the  
2 one that did the background check on the guns.

3 THE COURT: I understand that. I'm  
4 also concerned about the form of the question, Mr.  
5 Arntz. I will sustain it for the time being. Perhaps  
6 another question will solve the problem.

7 BY MR. ARNTZ:

8 Q. And also according to Tony Elofskey, not only did  
9 he not have a gun, he never got any money out of either  
10 these incidents?

11 A. That's what he said.

12 Q. And presented himself more or less as kind of a  
13 victim of the circumstances?

14 A. Oh, I wouldn't say that.

15 Q. Well, he indicated to you that he was not  
16 responsible for either of the shootings of those two  
17 people?

18 MR. DUNDES: Objection, your Honor.

19 THE COURT: Overruled.

20 A. Not at all. That's not at all what he said.  
21 He's part planning both robberies and part of each  
22 robbery and going into the house and setting both up, so  
23 hardly a victim of circumstance, sir.

24 BY MR. ARNTZ:

25 Q. Well, let me ask you something else here. You

1 looked at his car, his Monza automobile, didn't you?

2 A. Yes.

3 Q. And when you looked at the car, you took note of  
4 some of the items which were in the interior of that  
5 car, didn't you?

6 A. Yes.

7 Q. And where was the car at that time you looked at  
8 it?

9 A. The car was on McOwen Street just west of  
10 Riverside Drive.

11 Q. All right. And was it your understanding that  
12 that car was in the location where it had been stopped  
13 when Elofskey had jumped out of it?

14 A. When I first saw the car, I was aware that's  
15 where the car had come to a stop when the police officer  
16 followed the car.

17 Q. And to the best of your knowledge, was the car  
18 moved at any time when after it had been stopped by the  
19 police?

20 A. No, no. Not until I had seen the car, that's  
21 correct.

22 Q. And when you looked inside the car, you noted  
23 that you saw two speakers inside the car, didn't you?

24 A. Right. In the rear seat.

25 Q. And more specifically, the two speakers were in

1 the area directly behind the driver seat of the Monza  
2 automobile?

3 A. That's correct.

4 Q. And you also noted one or more cabinets of some  
5 kind inside the car?

6 A. I'm not sure. I know there is some speakers and  
7 tapes and stereo type stuff behind the driver.

8 Q. And if I understand you correctly, when you  
9 became involved in this investigation, I think you early  
10 on went into the Helena Street location right next to  
11 McOwen or McOwen?

12 A. McOwen.

13 Q. Where the automobile was located?

14 A. I went to Helena first, 42 East Helena.

15 Q. And then from Helena, shortly thereafter, you  
16 went to the Tennyson Avenue address of Richard Blazer?

17 A. No.

18 Q. When was it that you went to the Blazer home in  
19 relation to when you went to the Helena address?

20 A. Just prior. Just from Good Samaritan Hospital to  
21 Tennyson to Helena to McOwen.

22 Q. All right. I had that reversed. You went to  
23 Tennyson then to Helena?

24 A. Right.

25 Q. And when you went to Tennyson, of course, you

1 understood that was a homicide site, that was Richard  
2 Blazer's home?

3 A. Right. Yes.

4 Q. And when you went to Helena, you were told that  
5 there had been a chase of some persons in an automobile  
6 prior to your arrival?

7 A. Well, I knew that from, from earlier from even  
8 from the time I was at the hospital and at Tennyson I  
9 had known about the chase.

10 Q. And you suspected that the two incidents, the  
11 Tennyson Avenue incident and the Helena incident were  
12 somehow connected?

13 A. No.

14 MR. DUNDES: Objection.

15 THE COURT: Overruled.

16 A. There came a point that I suspected they were  
17 connected.

18 BY MR. ARNTZ:

19 Q. And at what point did you first suspect that  
20 those two incidents might be connected?

21 MR. SLAVENS: Objection. I want the  
22 question of the two incidents --

23 THE COURT: As to form. And we  
24 understand the rules on objections.

25

1 BY MR. ARNTZ:

2 Q. Detective, I'm asking you at what point in time  
3 did you first have the suspicion or feeling or hunch  
4 there was a connection between the Tennyson Avenue  
5 incident involving Richard Blazer and the Monument and  
6 Findlay incident involving Mark McDonald?

7 A. First crossed my mind when I ran the registration  
8 on, on the red Monza and it came back to Tony Elofskey,  
9 Tony D. Elofskey, 1617 Mack Avenue. At that point I  
10 thought possibly there was a connection.

11 Q. And can you explain a little bit further why it  
12 was that you, when you learned that the Monza was  
13 registered to Tony Elofskey that you suspected there  
14 would be a connection between the Monza automobile  
15 located on McOwen Street and the incident out at  
16 Monument and Findlay earlier that day?

17 A. Yes, I can explain.

18 Q. Please do.

19 A. I knew -- I did not personally know Tony  
20 Elofskey. I, I knew of Tony Elofskey, other  
21 investigations. I knew that he had a reputation as a  
22 hustler on Fifth Street. That he would, I've had a lot  
23 of contact with homosexuals, and would be on the river  
24 levee. I had information that Richard Blazer was a  
25 homosexual. I had information that Mark McDonald was